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H.R. 4297 – Tax Relief Extension Reconciliation Act of 2005

Received in the Senate on December 12, 2005. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 325.

NOTEWORTHY

- On February 1, 2006, the Senate will begin consideration of H.R. 4297, Tax Relief Extension Reconciliation Act of 2005 – the House version of the tax-reconciliation bill – in order to proceed to conference to reconcile the differences with the Senate version of the tax-reconciliation bill, S. 2020, the Tax Relief Act of 2005.
- On December 21, 2005, Senate Democrats objected to the customary unanimous-consent request to name conferees and proceed to a conference on the legislation.
- When the Senate calls up H.R. 4297, the bill will be open to further amendments, subject to the limitation of 20 hours of debate accorded to reconciliation bills. The provisions of S. 2020 are expected to be offered as a substitute amendment to the House bill.
- The FY 2006 budget resolution adopted by Congress (H. Con. Res. 95) authorized a revenue reconciliation bill that reduced revenues by not more than \$11 billion for FY 2006 and not more than \$70 billion for the period of FY 2006 through FY 2010.
- On November 18, 2005, the Senate passed S. 2020 by a vote of 64 to 33. The House of Representatives approved H.R. 4297 on December 8, 2005, by a vote of 234 to 197.
- In substance, H.R. 4297 is similar to the Senate tax reconciliation bill in that it extends provisions of the tax code that expired last year or will do so this year or later. The House bill also extends through 2010 the lower tax rates on dividends and capital gains enacted in 2003, a provision that was not included in the Senate bill. Additionally, H.R. 4297 does not address the so-called “patch” for the Alternative Minimum Tax (AMT), which was included in S. 2020 – the House passed separate legislation in December to address the AMT patch (i.e., H.R. 4096, Stealth Tax Relief Act of 2005).

Background

The FY 2006 budget resolution adopted by Congress (H. Con. Res. 95) authorized a revenue reconciliation bill that consists of changes in the laws within its jurisdiction sufficient to reduce revenues by not more than \$11 billion for FY 2006 and not more than \$70 billion for the period of FY 2006 through FY 2010.

On November 15, 2005, the Finance Committee reported favorably an original bill, the “Tax Relief Act of 2005” (S. 2020) by a vote of 14 to 6. The bill is designed to extend various tax provisions that will expire over the next five years in order to maintain consistent and stable tax policy for the nation. A complete list of expiring tax provisions is available on the Joint Committee on Taxation’s website at: <http://www.house.gov/jct/x-12-05.pdf>.

The Senate considered S. 2020 in November 2005 and approved the bill by a vote of 64 to 33 on November 18, 2005.¹ Subsequently, the House of Representatives approved H.R. 4297, Tax Relief Extension Reconciliation Act of 2005, by a vote of 234 to 197, on December 8, 2005.

In the Senate, Democrats objected on December 21, 2005, to a customary unanimous consent request to call up H.R. 4297 and amend it with the text of S. 2020 in order to proceed to a conference to reconcile differences in the legislation between the two bodies.² While reconciliation bills are subject to a limitation of 20 hours of debate, there is no limitation on amendments.

Bill Provisions

The following is a brief overview of the House bill’s provisions. A complete description of the “Tax Relief Extension Reconciliation Act of 2005” can be found in House Report 109-304.

I. Extension of Certain Expiring Provision through 2006

The bill extends through 2006 the following provisions, which generally expired at the end of 2005:

- Allowance of certain non-refundable tax credits against individual AMT liability (e.g., dependent care, HOPE and Lifetime Learning tax credits);
- Tax incentives for business activities on Indian reservations;
- Work opportunity tax credit (the bill also increases the age limit for eligible food-stamp recipients from 25 to 35);

¹For a summary of S. 2020, see the Republican Policy Committee’s Legislative Notice Number 26, November 16, 2005. Recorded Vote Analyses are also available for the seven amendments to S. 2020 that were approved by the Senate – <http://156.33.242.133/rpc/rva/home.htm>.

²*Congressional Record*, December 21, 2005, page S14289.

- Welfare-to-work tax credit;
- Enhanced charitable deduction for corporate donations of computer technology and equipment for educational purposes;
- Availability of Archer medical savings accounts (MSAs);
- Fifteen-year depreciation period for restaurant and leasehold improvements;
- Suspension of the taxable-income limit on percentage depletion for oil and natural gas from marginal wells;
- Tax incentives to revitalize the District of Columbia (e.g., D.C. Enterprise Zones, issuance of tax-exempt economic-development bonds, exemption of gain from the sale or exchange of enterprise-zone assets, tax credit for first-time D.C. homebuyers);
- Possessions tax credit for American Samoa;
- Parity in the application of certain limits to mental-health benefits;
- Authority for issuance of qualified zone academy bonds;
- Above-the-line deduction for out-of-pocket classroom expenses incurred by school teachers;
- Above-the-line deduction for qualified tuition and related expenses; and
- Tax deduction for state and local general sales taxes in lieu of state and local income taxes.

The bill also extends through 2006 the tax credit for research and development, while increasing the rates of the alternative incremental research and experimentation tax credit. Under the bill, taxpayers would also be permitted to elect an alternative simplified tax credit for research expenses.

II. Extension of Certain Provisions for Two Additional Years

The bill extends through 2007 the expensing allowance for environmental remediation costs, including remediation of sites at which petroleum products have been released or disposed.

Additionally, the bill extends through 2008 the exemption of active financial services income from Subpart F taxation, enabling domestic manufacturers and U.S.-based financial-services firms to price their products competitively. In addition to the extension, the bill also exempts from Subpart F certain cross-border payments of dividends, interest, rents and royalties between related foreign subsidiaries of U.S. companies.

The bill also extends through 2008 the tax credit for low-income workers who contribute to retirement-savings accounts – the so-called “saver’s credit.”

The bill extends through 2010 the 15-percent tax rates for capital gains and dividend income enacted by the Jobs and Growth Tax Relief Reconciliation Act of 2003. The increased expensing allowance and phase-out threshold for depreciable business property acquired by small businesses (i.e., section 179 expensing) are also extended through 2010.

III. Miscellaneous Provisions

The bill includes the following extensions and modifications to existing provisions of the tax code:

- Clarification of the tax treatment for certain environmental-cleanup settlement funds established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, excluding them from tax if certain standards and requirements are met;
- Revision of the active trade or business test for non-recognition of the gain from distributions of corporate property so that members of a corporation's affiliated group are treated as one corporation;
- Modification of the eligibility requirements for veterans' mortgage bonds to provide that veterans must apply for financing within 25 years of leaving active duty (currently, such veterans must have served prior to January 1, 1977, in order to be eligible);
- Allowance for taxpayers to treat self-created musical works, which are sold by the artist before January 1, 2011, as capital assets (under current law, such sales would produce ordinary income);
- Revision of the definition of "qualifying vessel" for purposes of the alternative tax on international shipping activities by reducing the tonnage limit for such vessels from 10,000 to 6,000 deadweight tons for taxable years beginning after December 31, 2005, and ending before January 1, 2011; and
- Codification and extension until August 31, 2009, of the special arbitrage rules enacted by the Deficit Reduction Act of 1984 with respect to the "Permanent University Fund," which is used to finance the activities of certain state universities.

Cost

The Joint Committee on Taxation (JCT) estimates that the bill will reduce federal tax revenues by a net \$5.77 billion in FY 2006 and by \$56.08 billion over five years. The bill contains no offsets. A copy of the JCT's revenue estimate is available at: <http://www.house.gov/jct/x-81-05.pdf>.

Administration Position

For consideration of H.R. 4297 by the House of Representatives, the Administration issued the following Statement of Administration Policy (SAP) on December 8, 2005, with respect to the tax provisions of the bill:

The Administration strongly supports House passage of H.R. 4297, which extends a number of important tax provisions that would otherwise expire shortly.

The Administration strongly supports tax relief for dividends and capital gains and is pleased the House has included the extension of these important provisions in the bill. Tax relief for dividends and capital gains has contributed directly to the strengthening of the Nation's economy, which has created over four million new jobs since the enactment of the relief, and the stronger economy has helped produce substantial additional revenues that have reduced the deficit. These extensions are necessary to provide certainty for investors and businesses and are essential to sustaining long-term economic growth.

Possible Amendments

The strict rules governing floor consideration of reconciliation measures require that amendments be germane. It is anticipated that the Senate-passed tax-reconciliation bill, S. 2020, will be offered as a substitute amendment to the House bill. Other amendments are possible, although they would have to eliminate or modify provisions of S. 2020, or include new revenue-raising provisions, which would be limited by the germaneness rules.